

OGC REVIEW COMPLETED

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24 FEB 1956

**MEMORANDUM FOR: Deputy Director of Central Intelligence**

**SUBJECT : Termination of Agency Employees**

In accordance with our recent discussions, we have examined current policies and procedures for the termination of Agency employees, in order to develop conclusions and recommendations for improvement.

**I. Background**

1. In the historical development of policies and procedures for terminating Agency employees, that event which first occurred has always been the most important, namely the enactment by Congress in

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2. In its early days, the Agency wittingly forbore the exercise of this plenary power of the DCL. There were three principal reasons for this development:

a. The Agency was concentrating on getting organized and on recruiting the personnel to staff its organization, so that problems of terminating personnel were largely hypothetical.

b. Most of the original personnel of the Agency came from CIO, which had been governed by Civil Service provisions, and those first employees were soon joined by others whose sole governmental experience had been in departments or agencies similarly governed.

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3. There was an understandable initial reluctance to vest the full powers of the DCI until the Agency had developed a competence to fulfill its mission, at least to the extent of being reasonably assured that it would be allowed to continue to exist.

4. As a result, CIA early incorporated into its own regulations, policies and procedures borrowed from standard government practices. Some of these procedures remain today. For example, it is still our policy respecting pay that:

"Although the Agency is exempt from the provisions of the Classification Act of 1949, the Agency shall adhere to the provisions of this Act insofar as possible. Basic classification principles and compensation schedules will be followed in order to assure that employees receive equality of compensation for work performance." [redacted]  
"Personnel Policies," 5 November 1951, para. A(X) 1

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5. As the Agency's termination policies and procedures developed, they similarly retained provisions resulting from the early practice of voluntarily borrowing from standard government routines, although we have now learned to accompany such incorporations with a statement as to the Director's plenary power, as for example:

"Employees with veterans' preference and/or Civil Service status shall be accorded all rights and privileges granted them under existing laws and regulations, subject to authority granted the DCI under the National Security Act of 1947 and such special agreements as may conflict with such rights and privileges." [redacted]

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6. By mid-1953, it became obvious to many Agency officials that the Agency was now sufficiently established and staffed so that it was high time to re-examine whether the Agency's termination policies and procedures were sufficiently commensurate with the Director's powers. The rapid growth occasioned by Korea had ceased; the Director had imposed personnel ceilings; supervisors and Personnel officials found that termination problems were no longer hypothetical but were indeed pressing in a growing number of cases. Consequently, in August of 1953 the Acting Personnel Director requested the General Counsel for an opinion as to applicability of the Director's plenary power in a situation which, while hypothetical, stated a case as difficult as any likely to be faced in regard to termination. The Personnel Director asked whether the DCI could terminate:

"An individual, either veteran or non-veteran, determined to be surplus to the needs of an organizational element by the head of the element. All efforts by the Personnel Office to reassign the individual elsewhere in

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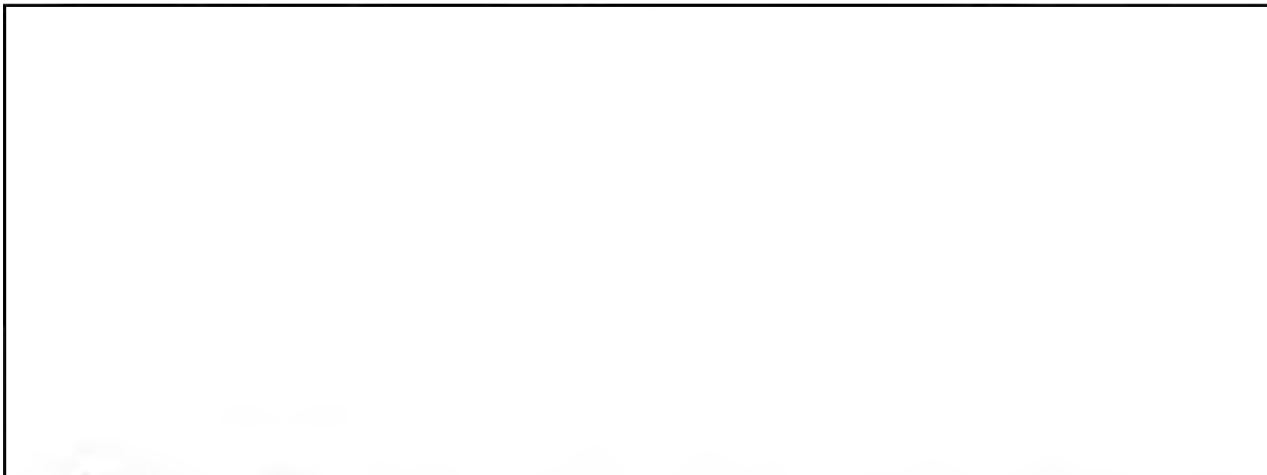
the Agency are without success. The official record of the individual contains no unfavorable work record information but, in fact, contains favorable entries on work performed. The office declaring the individual surplus claims it cannot accommodate him under authorized positions. The Agency is not faced with a general reduction in force.

6. In a memorandum dated 25 September 1953, the General Counsel stated his opinion that the Director had the legal authority to terminate such an employee, provided that the Director was willing to certify that the termination was "necessary or advisable in the National interest, the Statutory test. In coming to this opinion, however, the General Counsel dealt upon Congress's intent in giving the Director this power and concluded that security or loyalty cases were the major justification. He hence suggested that the Director might wish to restrict action under this power to security and loyalty cases, and perhaps to cases where the circumstances may be peculiar to this Agency and not subject to general administrative practices."

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### 13. The Present Situation

1. It is now generally understood throughout the Agency that a prime Agency objective is to separate those individuals who do not perform efficiently or whose services are no longer required. [redacted] "Personnel Policy," 3 June 1953, so state [para. 3.a.(6)]. It is less well understood how this objective is to be achieved. The pertinent facts are as follows:

a. General separation actions for a variety of relatively routine causes are fully detailed in [redacted] of 23 April 1955. A proposed revision of this regulation (Tab A) is currently circulating for comment accompanied by a proposed companion [redacted] (Tab B). Subject to the correction of certain inaccuracies (Tab C), these regulations will be entirely adequate guides to the orderly termination of those employees whose situations match their provisions.

b. Termination for two specific causes not covered by the general regulation cited above are covered as follows:

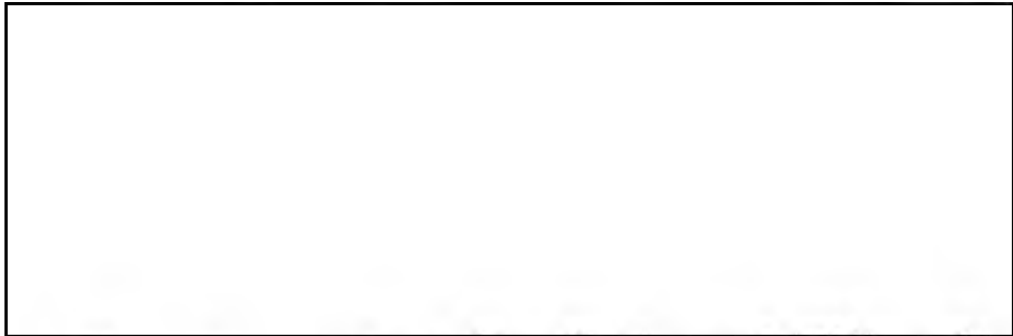
- (1) Separation for entry into military service, by [redacted]
- (2) Separation based on adverse findings of a security hearing board, by [redacted]

(These guides are adequate, but should be issued in field equivalents.)

c. The activities of the permanent "Special Employee Review Board," established to handle cases of mediocre personnel, are less well known than the provisions cited above. While all [redacted] Employee Review Boards are expatriated from time to time

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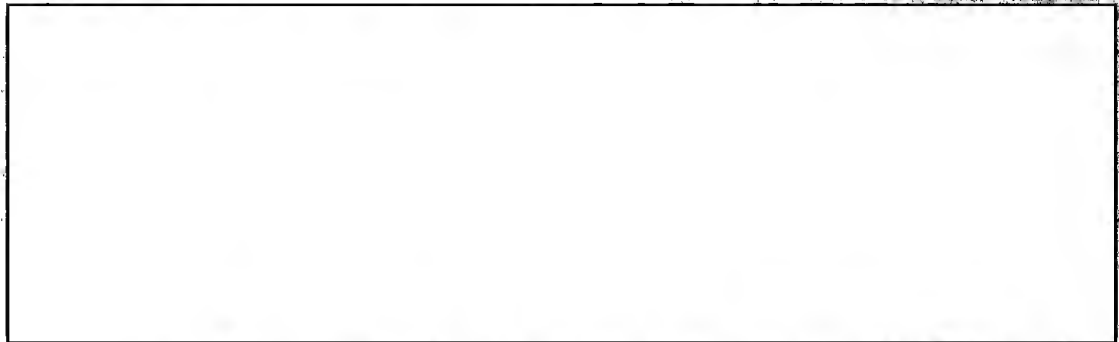
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however, been in existence for some time and although it has formally heard only four cases, its very existence has been instrumental in inducing the resignation of a number of other mediocre employees.

2. The following conclusions seem warranted by the historical development of the Agency's termination policies and procedures and by the Agency's limited experience in terminating mediocre employees over the last years:

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b. The Agency has established, in its "Special Employment Review Board," the flexible and adequate mechanism needed to implement the policy set forth above. That this mechanism even exists, much less its purposes, is not made clear in any written material available to supervisors. As a result, supervisors are uncertain as to the inter-relationship of the general, military, and security separation actions (spelled out in Regulations [redacted] with the "Employment Review Board," only the name of which is given in [redacted]

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c. Although we have adopted a new policy respecting the Director's use of his power under the statute, and although we are well on the way to developing the procedures needed to implement that policy, we are still plagued by vestiges of our previous policies and procedures. In part, this is caused by carrying over from our regulations those old provisions which are at odds with our present policy. In part, the cure must be persistent indoctrination of supervisory personnel as to what our policy is and what procedures they must employ.

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PERSONNEL ACTIONS

*Following notation  
made by  
DDP*

1. The Director's policy that the termination of mediocre personnel is advisable in the national interest should be made clear in the following ways:

*Action: Dir Pers*

a. By appropriate addition to [redacted]

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b. By rescinding [redacted]

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c. By rescinding [redacted]

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*Action: DDP (Pers) ("Personnel Procedures," 13 March 1953)*

*Action: Dir Pers*

d. By appropriate addition to [redacted] ("Fitness Report")

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*Action: Dir Pers*

2. The procedures for implementing this policy should be made clear in the following ways:

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a. [redacted] should be expanded to indicate that a permanent Employment Review Board is established to assist the DCI in the exercise of his statutory power in cases not covered by the general separation actions in [redacted] by military or security considerations. This regulation should also state that supervisors should seek this method of termination in cases where use of the general separation actions might result in a failure to protect intelligence sources and methods from unauthorized disclosure, and in cases where the reason for termination is not any of those enumerated in the regulations on routine separation actions, but rather is one of mediocre performance. (This is not to suggest a reversion to an inflexible spelling out of the procedures of the EMB, which would be an unfortunate return to our prior practice. It is rather to provide a guide to supervisors as to the full extent of available procedures and the appropriate circumstances for their use.)

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*Action: Dir Pers*

b. The term "mediocre" should be formalized in an instruction to supervisors (perhaps in connection with preparing fitness reports) setting forth applicable tests and standards.

*Action: Dir Pers*

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2. The Director of Personnel should be charged with ensuring that all feasible training and rotation opportunities have been considered prior to starting termination action on the grounds of mediocrity.

Action: *See Para*

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Lyman B. Kirkpatrick  
Inspector General

The recommendations contained in Section III, pp. 6 & 7, are approved and will be implemented by the Director of Personnel.  
(See suggested amendments in pencil on Tab A.)

CONCUR:

Signed C. P. CABELL

C. P. Cabell  
Deputy Director

11 MAY 1956

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*15/ L. K. White*  
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